1049.

SUPREME COURT OF THE UNITED STATES.

No. 111.

THE UNITED STATES, PLAINTIFFS,

vs.

WILLIAM H. FREEMAN.

ON A CERTIFICATE OF DIVISION FROM THE CIRCUIT COURT U. S. FOR MASSACHUSETTS.

Circuit court of the United States, Massachusetts.

UNITED STATES
vs.
W. H. FREEMAN.

Statement of facts.

It is agreed that E. J. Weed was quartermaster of the marine corps, and advanced the defendant, Lt. Col. Freeman, $2,500 on the 23d May, 1836, by a draft on the Commonwealth Bank, Boston, for public expenditure; and that the account of said Freeman in his, said Weed's, books, at his decease, including said advance of $2,500, ended with a balance of $2,426 90 against said Freeman, the defendant, as appears by his account, with a letter from said Weed, of 10th February, 1838, marked A. But upon the application of the administrator of Major Weed's estate, the second comptroller directed that estate to be credited with the said full sum of $2,500, and the same to be charged to Colonel Freeman; making a difference of $73 10 charged against him, by order of the second comptroller, more than appeared against him on the books of Quartermaster Weed at the time of his decease.

Said draft of $2,500 on the Commonwealth Bank, was carried to the personal credit of Col. Freeman on the books of said bank, when presented by him; and the sum of $222 67 is now claimed by Col. Freeman, as the undrawn balance of said $2,500 remaining in the Commonwealth Bank, which was, at the time of drawing said draft, a bank of public deposite; but said bank, in May, 1837, suspended specie payments, and thereby, by force of the statute, ceased to be a deposite bank; but the funds of the Government had not been withdrawn therefrom at the time of its failure, in January, 1838, because the bank had refused to pay the specie; and at the time of

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its failure, in January, 1838, said sum of $222 67 was remaining to Col. Freeman's credit from said $2,500; and Col. Freeman being called on for a settlement of his account, sent to the third auditor's office his check for said balance of $222 67, which was refused on the ground that the bank was not then, in 1839, a public deposite bank.

Those two items of $73 10 and $222 67, amounting to $295 77, are duly certified, by a Treasury transcript, as due from Col. Freeman, on the books of the Treasury.

It is further agreed, that Col. Freeman was commissioned a captain in the line of the marine corps, on the 17th of July, 1821, and on that lineal rank he was commissioned a lieutenant colonel, by brevet, on the 17th of July, 1831, and on the 30th of June, 1834, he was commissioned a major in the line of the marine corps.

Colonel Freeman files an account, in set-off against the United States, of $1,013 93, for brevet pay and rations while in command on the Boston station, the same being a separate station or detachment, under the provision of the 3d section of an act of Congress of 16th April, 1814, for the augmentation of the marine corps. Said amount extends from the 30th of June, 1834, to the 1st of April, 1842, and has been presented to, and disallowed by, the fourth auditor.

Said Freeman files an account, also, of $1,669 00, for double rations while in command on the Boston station, between the 30th of June, 1834, and the 1st of April, 1842, under a joint resolution of Congress, of 25th May, 1832; which account has also been presented to, and disallowed by, the fourth auditor.

Said Freeman files also an account, of $354 69, for the responsibilities of clothing, &c., while a captain in the line of the marine corps, and in command of the marines on the Boston station, from the 17th of July, 1831, to the 30th of June, 1834, under an act of Congress, of 30th June, 1834, making certain allowances, &c., to the captains and subalterns of the marine corps, as to officers of similar grades in the army, under an act of 2d March, 1827; which account has likewise been presented to, and disallowed by, the Fourth Auditor of the Treasury, on the ground that the defendant received the pay of a grade higher than that of captain.

It is further agreed, that double rations have been paid heretofore, and up to the 30th June, 1834, to the officers of the marine corps, in the manner and as stated in the letter of the fourth auditor, of date 27th April, 1842, and marked B, and annexed; also, that estimates and appropriations were made, as stated in said letter, since 1834.

Upon the foregoing facts, the case is submitted to the court; the accounts of the said several claims of the said Freeman to be adjusted hereafter by the officers of the Treasury, if the same, or any portion of them, are found by the court to be legally due.

FRANKLIN DEXTER,
U. S. Dis. Att'y.
W. H. FREEMAN.

A.

DR. *Lt. Col. Wm. H. Freeman, in account current with Major E. J. Weed, Quartermaster M. C.* CR.

1835. Sept. 14	To balance in your hands, per your letter of this date	$58 05		1835. Oct. 19	By sundry small bills paid	–	$38 10
" 15	To remittance to you at Boston	187 18		Nov. 24	bill of James Bird	50 00	
Oct. 27	To remittance to you at Boston	38 10			mechanics' extra pay	15 00	
Nov. 24	To remittance to you at Boston	254 68			C. C. Felton	20 00	
1836. Jan. 6	To amount advanced you in Washington	100 00			Col. Freeman, forage & fuel, 3d qr. 1835	90 00	
Feb. 12	To sales of clothing in September, 1835	69 01			W. C. Murdock	53 00	
May 11	To my check in Washington	500 00			E. Tookey	9 18	
" 23	To requisition on Treasury in your favor	2,500 00			Fred'k Lane, drum cords	17 50	254 68
				Dec. 8	By amount paid Mr. Plympton for me	–	28 42
				1836. April 12	bill of C. C. Felton	20 00	
					bill of sundry freight, and app'g a deserter	79 04	
					bill of T. J. Eckley	7 27	
					bill of E. Tookey	9 25	115 56
				May 11	By fuel and forage, 1st qr. 1836	207 00	
					bill for contingencies, freight, &c.	59 74	
					bill of Serg't W. Tait, for app'g a deserter	30 00	296 74
	10th February, 1838.			June 1	By bills of Thos. M. Thompson, for ochre, oils, paints, &c.	233 00	
					Edw'd Nichols	32 06	
					Jno. Lynder, straw	11 75	
					Jas. Bird	34 37	
					C. C. Felton	13 32	
					Wm. C. Murdock	212 00	
					E. Tookey	10 12	546 62
							$1,280 12
					Balance due Quartermaster's Department	–	2,426 90
	Balanced	$3,707 02			Balanced	–	$3,707 02
1837. Mar. 24	To balance brought down	$2,426 90		1837. Mar. 24	By am't transfer'd against you to War Dept.	–	$2,426 90